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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,231	09/14/2001	David John Fisher		1861

7590 07/02/2003  
Edwin D Schindler  
Five Hirsch Avenue  
PO Box 966  
Coram, NY 11727-0966

EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/914,231

Applicant(s)

FISHER ET AL.

Examiner

Stephen D'Adamo

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3636

## **DETAILED ACTION**

### ***Drawings***

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on May 6, 2003 have been approved, however, a new objection to the drawings is described below. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the reinforced bar must be shown or the feature(s) canceled from the claim(s). Neither the specification nor the drawings contain a reference number to distinctly point out the reinforced beam. The specification only states, "passing basically around the periphery of the back." A reference character is needed for clarity. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

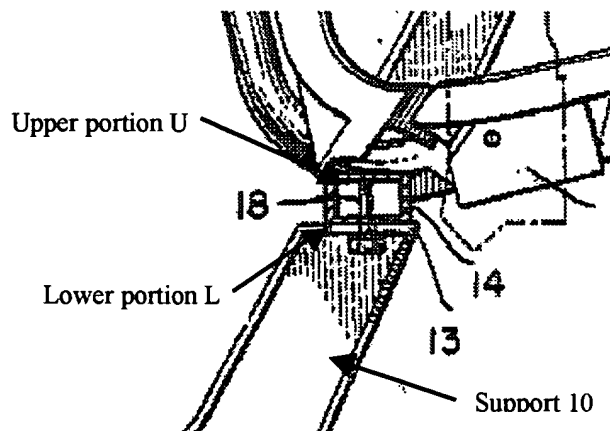
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3636

Claims 26, 31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoven et al. (3,194,601).

Hoven discloses an audience chair including at least one seat having a base (Figure 11) and a beam 14 supporting the seat and being connected to a surface behind and adjacent to the seat. The beam 14 has an upper portion "U" for receiving the base and a lower portion "L" for connecting to the support 10 (shown below) in an enlarged view of Figure 6. Furthermore, the connecting means, via a bolt 18, enables the seat to move longitudinally along the beam. Regarding claims 31 and 32, Figures 1 and 2 show a plurality of individual seats, unconnected from one another, located along the beam 14; thus, each chair having the capability to alter positions along the beam, relative to the other seats.



***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3636

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoven et al. (3,194,601) in view of Hock (6,095,603).

Hoven discloses a similar seat with at least one seat, a base and a beam having a support with connecting means. However, Hoven only teaches of a bolt 18 for connection means. Yet, Hock teaches of a longitudinal channel or slot 11 in the underside of the beam 10 for receiving a connector member 23 and bolt 24. The connector member 23 and 24 is connectable to the support 22 of Hock. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the connection means of Hoven with a longitudinal channel and connector means, as taught by Hock, for a more secure and easier connection assembly.

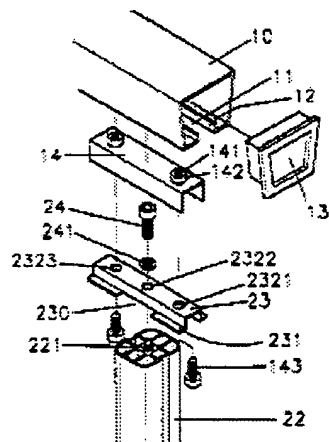


Figure 2  
Exploded View of Hock

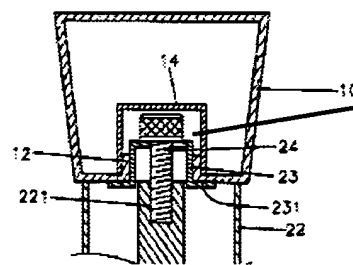


Figure 6  
Side View of Hock

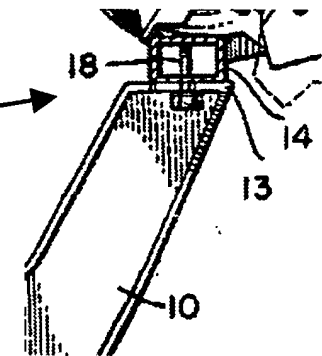


Figure 6  
Side View of Hoven

Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoven et al. (3,194,601) in view of Eames et al. (3,114,575).

Art Unit: 3636

Hoven discloses a similar seat with at least one seat, a base and a beam having a support with connecting means. Further, Hoven's seating system includes a pivot for pivotally connecting the seat to the seat support. "The forward seat segment 30 is supported by the following structure: a pair of seat tubes 32,...a rearwardly extending plate 33,...a U-shaped strap 34,...a pivot rod 36" (col.2, lines 34-40). Hoven discloses, "the U-shaped strap 34 and the member 33 are apertured at 35 to receive a pivot rod 36." However, Hoven does not teach of a pair of arms connected to the seat back and a reinforcing bar. Yet, Eames does teach of a pair of arms 46, each connected to the seat back 6 and reinforcing bars or frames 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the arms on the audience chairs of Hoven with arms connected to the backrest, as taught by Eames, for a more secure or stable arm assembly.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoven et al. (3,194,601) in view of Wilkie et al. (5,636,900).

Hoven discloses a similar seat with at least one seat, a base and a beam having a support with connecting means. However, Hoven does not teach of an extended back member. Yet, Wilkie teaches of an extended back member, "optionally, the seating system may have a back extension releasably attached to the seat back" (Abstract, lines 11-13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seating system of Hoven with an optional back extension, as taught by Wilkie, so "the seating system can be selectively enlarged or reduced to

Art Unit: 3636

provide variable and substantial support to the specific areas of the user's anatomy"

(col.2, lines 44-46).

***Response to Arguments***

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Resch et al. (3,885,766) and Thatcher et al. (3,343,870) both show various features of the claimed invention.

Art Unit: 3636


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1018.

SD

sd  
June 26, 2003

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600